

# Order

Michigan Supreme Court  
Lansing, Michigan

April 13, 2007

Clifford W. Taylor,  
Chief Justice

132292-3

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

SUPER MART INC., d/b/a MOONEY OIL  
COMPANY, BY LO OIL COMPANY, and  
KH MATTIS, INC.,  
Plaintiffs-Appellants,

v

SC: 132292-3  
COA: 265758-265759  
Ingham CC: 04-000960-AW  
Ct of Claims: 04-000099-MZ

DEPARTMENT OF TREASURY and STATE  
OF MICHIGAN TREASURER,  
Defendants-Appellees.

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On order of the Court, the application for leave to appeal the July 25, 2006 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

MARKMAN, J., dissents and states as follows:

The Court of Appeals erred, in my judgment, in holding that plaintiffs lacked standing to challenge the regulatory fee at issue in this case. Plaintiffs are wholesale and retail sellers of petroleum products. Although MCL 324.21508(1) states that the fee is “imposed on all refined petroleum products sold for resale in this state,” MCL 324.21508(2) states that the regulatory fee is “precollect[ed]” from refiners and importers of petroleum. By holding that plaintiffs lacked standing to contest this statute, the Court of Appeals treated the term “precollect” as the equivalent of “collect,” thereby rendering the prefix “pre” surplusage. However, the term “precollect” indicates that plaintiffs had a legitimate right to challenge the regulatory fee imposed on refiners and importers. I would remand this case to the Court of Appeals for consideration of plaintiff's constitutional arguments.

CORRIGAN, J., joins the statement of MARKMAN, J.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 13, 2007

*Corbin R. Davis*

Clerk